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AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18, relative to telephone solicitation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following as a new section, to be appropriately designated:

Section \_\_\_\_.

(a) As used in this section:

(1) "Telephonic sales call" means a call made by a telephone solicitor to a consumer, for the purpose of soliciting a sale of any consumer goods or services, or for the purpose of soliciting an extension of credit for consumer goods or services, or for the purpose of obtaining information that will or may be used by the solicitor or a third party for the direct solicitation of a sale of consumer goods or services or an extension of credit for such purposes;

(2) "Unsolicited telephonic sales call" means a telephonic sales call other than a call made:

(A) in response to an express request of the person called;

or

(B) primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of such call;

(3) "Telephone solicitor" means any natural person, firm, organization, partnership, association or corporation, or a subsidiary or affiliate thereof, doing business in this state, who makes or causes to be made a telephonic sales call, including, but not limited to, calls made by use of automated dialing or recorded message devices;

(4) "Consumer" means an actual or prospective purchaser, leasee or recipient of consumer goods or services; and

(5) "Department" means the department of commerce and insurance.

(b) No telephone solicitor shall make or cause to be made any unsolicited telephonic sales call to any residential, mobile or telephonic paging device telephone number if the number for that telephone appears in the then current quarterly listing maintained by the department. This section does not apply to any person who calls an actual or prospective seller or lessor of real property when such call is made in response to a yard sign or other form of advertisement placed by the seller or lessor. The department is authorized to charge a fee to telephone solicitors for use of or copies of the listing that reflects the costs of maintaining the registry.

(c) The department shall investigate any complaints received concerning violations of this section. If, after investigating any complaint, the department finds that there has been a violation of this section, the department or the office of the attorney general and reporter may bring an action to impose a civil penalty and to seek other relief, including injunctive relief, as the court deems appropriate against the telephone solicitor. The civil penalty shall not exceed ten thousand dollars (\$10,000) per violation and shall be deposited in the general inspection trust fund if the action or proceeding was brought by the department, or the consumer frauds trust fund if the action or proceeding was brought by the office

of the attorney general and reporter. This civil penalty may be recovered in any action brought under this part by the department, or the department may terminate any investigation or action upon agreement by the person to pay a stipulated civil penalty. The department or the court may waive any civil penalty if the person has previously made full restitution or reimbursement or has paid actual damages to the consumers who have been injured by the violation.

SECTION 2. This act shall take effect January 1, 1997, the public welfare requiring it.